

Chapter 5

State Role and Responsibilities

While the State believes the regions should have a greater role and responsibility in California's integrated water and resource planning and management (see Chapter 4), this chapter describes:

- How the State must work with and assist the regions to diversify their regional portfolios by implementing the resource management strategies and recommended actions in the Water Plan's Implementation and Investment Guide (described in Chapter 6)
- How the State must continue to lead, plan, implement, and oversee those aspects of the state's water resources which the regions cannot accomplish on their own, including operation and maintenance of the State Water Project, protection of public trust resources, and meeting statewide water demands for all beneficial uses
- Recommended actions for strengthening the State's role

In a leadership role, the State must comprehensively use technical and administrative assistance, loans and grants, guidelines, regulations, and laws to promote regional integrated resource planning and implementation. The State can facilitate successful regional planning in a number of ways, including encouraging broad public participation; developing and disbursing information on new technologies; providing guidelines for surface water and groundwater management, data collection and performance evaluations; and implementing voter-approved grant programs to fund a variety of water management activities.

At the same time, the State is responsible for assessing the potential system-wide impacts and tradeoffs of proposed regional integrated resource plans to ensure that, taken together, they would protect public trust resources and the environment, and meet statewide water demands for all beneficial uses. To accomplish this, the State should assess regional plans and provide regulatory oversight and assistance to regions as they implement their portfolios of resource management strategies.

With the shift to a greater regional role and responsibilities for water planning and management, DWR must retool and expand its role, and form stronger partnerships with regions, to facilitate and improve regional integrated resource planning and management and serve as a catalyst for greater progress.

Continuing State Role

The State has and should continue the following roles (discussed in Chapter 2):

- Ensure clean and safe potable water for all Californians and the health of all who use it.
- As trustee, take the public trust into account in the planning and allocation of water resources, and to protect public trust uses whenever feasible. The Public Trust Doctrine requires the state to exercise continued supervision over its navigable waters and the lands beneath them to protect the public's rights to commerce, navigation, fisheries, recreation, ecological preservation and related uses. While it may be necessary for the state to approve some appropriations of water despite foreseeable harm to public trust uses, the state must consider the effects on the public trust and preserve, so far as consistent with the public interest, the

State Government Agencies Roles In Water Management

(Details in Chapter 2)

- State Water Resources Control Board – Regulate California's water rights and water quality
- Regional Water Quality Control Boards – Protect surface, ground and coastal water quality
- Department of Water Resources – Operates the State Water Project and is responsible for overall water planning
- Department of Health Services – Regulate and permit drinking water
- Department of Fish and Game -
- Reclamation Board -
- Department of Food and Agriculture -
- California Environmental Protection Agency -
- Delta Protection Commission -
- Colorado River Board -
- California Bay-Delta Authority -

Federal Government Agencies Roles in Water Management

(Details in Chapter 2)

- Bureau of Reclamation – Federal water supply projects
- USEPA – Protecting human health, safeguarding the natural environment
- Fish and Wildlife Service – conserve, protect and enhance fish, wildlife, and plants and their habitats
- U.S. Geological Survey – Water measurement and water quality research
- NOAA Fisheries – Protects and preserves living marine resources, including anadromous fish
- Bureau of Land Management – Manages federal lands
- National Park Service – Manages national parks, including their watersheds
- Department of Agriculture – Manages forests, watersheds, and other natural resources
- U.S. Army Corps of Engineers – Flood management and wetlands permits
- Western Area Power Administration – Manage power generated by the Central Valley Project

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uses protected by the trust.

- Ensure that, taken together, proposed regional integrated resource plans and other State, federal and local water initiatives meet statewide water demands for all beneficial uses.
- Protect the environment by assessing and documenting environmental water demands, identifying strategies for restoring degraded ecosystems, participating in restoration efforts, encouraging local restoration projects, and maintaining data on implemented and proposed restoration projects.
- Improve the ecological health, water quality and water conveyance capacity of areas with statewide significance, such as the Sacramento-San Joaquin Bay Delta, Klamath basin, Trinity River, Mono Lake, Owens Valley and Salton Sea.
- Ensure that environmental justice is afforded to all Californians, particularly disadvantaged citizens and vulnerable communities that have experienced disproportionate health and environmental impacts.
- Engage California's Native Americans at all stages of the state's water planning process to assist in recognizing and accommodating tribal needs.
- DWR is responsible for operating and maintaining the State Water Project in close cooperation with the federal Central Valley Project and resources agencies, consistent with its contractual obligations, and in collaboration with its water contractors, local agencies and governments and the public.
- DWR will collect basic data, develop and maintain analytical tools, analyze information, and prepare statewide planning documents such as the Water Plan Update, in compliance with the requirements of the Water Code and other statutes. Improved data collection and analyses by the State is critical because in some cases important water use information is based not on actual data but on assumptions and estimates that are not updated for years at a time.

Federal Role

The federal government should continue to:

- Operate and maintain the Central Valley Project and other federal water projects in close cooperation with DWR, and in collaboration with its contractors, local agencies and governments and the public.
- Assist and fund the implementation of the Bay-Delta Program, Central Valley Project Improvement Act, Water 2025 plan, and other federal programs, projects and policies.
- Provide data and expertise through the U.S. Geological Survey, U.S. Bureau of Reclamation, U.S. Fish and Wildlife Service, National Marine Fisheries Service, and other agencies.
- Provide technical, administrative and financial assistance to regional and local agencies and governments to develop regional and local plans and implement strategies to meet their water challenges.
- Review and set environmental standards through the Clean Water Act and the Endangered Species Act.

- Continue to coordinate activities with the federal government in its own role in California water management and planning (see adjacent box and Chapter 2). The federal government plays an important role in managing and regulating California's water resources as the owner of about 50 percent of the state's lands and owner-operator of the Central Valley Project and Klamath Project.

Continuing State Commitments

This Water Plan Update includes the following State commitments and programs as part of its recommendations. Most of the following programs, while the result of statewide planning efforts and measures, are implemented at the local level (many of these are described in Chapter 2):

- Implement actions with funding from Propositions 13, 40, and 50.
- Implement and share in funding all actions in the Bay-Delta Program covering the first seven to 10 years of program implementation for improving water supply and quality from the Bay-Delta and restoring this important ecosystem.
- Provide State leadership and implement State commitments in the Quantification Settlement Agreement to reduce the State's use of Colorado River water to 4.4 million acre feet per year by 2015.
- Implement and share in funding the recommendations of the Sacramento and San Joaquin River Basins Comprehensive Study for flood control improvements, Governor's Advisory Drought Panel, Floodplain Management Task Force, Water Desalination Task Force, Stormwater Quality Task Force, State Recycling Task Force, and California's Groundwater Update 2003 (Bulletin 118-03).
- Provide incentives for local ground water management to reduce and reverse groundwater overdraft and achieve sustainable and safe ground water supplies.
- Implement the goals and initiatives of the State Water Resources Control Board's Strategic Plan, Regional Water Quality Control Board Watershed Management Initiative, and the California Watershed Strategic Plan, as prepared jointly by the Resources Agency, Cal EPA, stakeholders and watershed groups.
- Use the guiding principles; implement the "urgent and immediate priorities"; recommended options and investment opportunities for water; and consider the proposed investment strategies and criteria identified by the Governor's Commission on Building for the 21st Century. The

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- 1 Commission stresses the need to integrate the State's investments across
- 2 multiple resources, such as land use, water, energy and transportation.

Recommended Actions for Strengthening the State Role

The State's existing role would be strengthened by implementing the following recommended actions:

1. Make the needed local State and federal investments in the actions outlined in the Implementation and Investment Guide to meet 2030 water management needs. These actions are consistent with and inclusive of actions included in the California Bay-Delta Program Record of Decision as implemented by the California Bay-Delta Authority, and the recommendations of the Water Desalination Task Force, the State Recycling Task Force, the Stormwater Quality Task Force, the Floodplain Management Task Force, and California's Groundwater (DWR Bulletin 118-03). The State seeks and leverages federal assistance and funding for State, regional and local water initiatives, including the federal share of the Bay-Delta Program. DWR coordinates implementation of the Water Plan recommended actions with the federal Water 2025 plan initiatives.
2. The State recognizes the critical role regions must play in California water planning and management and should provide regions incentives and assistance to plan and implement multi-objective, diversified water portfolios, planned to the extent practicable on a watershed basis. DWR should provide regions with guidance and technical and administrative assistance to support their integrated regional planning. The State pursues legislative and administrative reforms, with guidance from regional planning efforts, to promote regional integrated resource planning and to overcome regulatory and institutional barriers to effective water planning and resource management.
3. The State carries out its constitutional, statutory, and regulatory responsibilities for leading, planning and overseeing many aspects of managing California's water resources that the regions cannot accomplish on their own.
4. Encourage cities, counties and LAFCO's to include a Water Element in their next General Plan update to improve coordination of land use planning and water planning and management. The State provides regional and local planners with technical, administrative and financial assistance in implementing legislation such as SB 221 and 610 and related State policies.
5. The State exercises continued supervision over its navigable waters and the lands beneath them to protect the public's rights to commerce, navigation, fisheries, recreation, ecological preservation and related beneficial uses. Public agencies take the public trust into account in the planning and

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1 allocation of water resources, and to protect public trust uses, whenever
2 feasible (see box for examples of public trust responsibilities).

3 6. The State expands the role of California's Native Americans at all stages of
4 the state's water planning process, provides assistance as needed for their
5 participation, and with federal government cooperation, assists in recognizing
6 and accommodating tribal needs.

7 7. The State ensures that environmental justice is afforded to all Californians,
8 particularly disadvantaged citizens and vulnerable communities that have
9 experienced disproportionate health and environmental impacts.

10 8. Work with researchers to better monitor and predict the effects of global
11 climate change on California's water systems and the environment by
12 developing alternative climate change flow data to test their potential effects.
13 The State continues and expands monitoring indicators and analytical studies
14 of the impacts of global climate change on California's water supplies, such
15 as snow levels at higher elevations, sea level rise, and runoff patterns. The
16 State leads the policy debate on how best to plan for and curb climate change
17 impacts and to maximize the efficiency and flexibility of the current water
18 infrastructure.

19 9. As soon as practicable, a Governor's Strategic Water Team is established to
20 strengthen communication, coordination and cooperation among State
21 departments dealing with water, and to ensure that their strategic planning
22 and implementation are consistent with the Governor's water policies. DWR
23 strengthens communication, coordination and cooperation with the California
24 EPA, the California Bay-Delta Authority, the State Water Resources Control
25 Board, the Department of Fish and Game and other state agencies, as well
26 as federal and regional agencies and governments, when planning and
27 implementing Water Plan Updates.

28 10. The State's plan and infrastructure investments are consistent with the three
29 legal requirements of Government Code Section 65042: promote infill
30 development and equity; protect environmental and agricultural resources;
31 and encourage efficient development patterns.

32 11. DWR develops and maintains the California Water Plan Information
33 Exchange (Water PIE), a data management system to assist regional and
34 local agencies and governments prepare their integrated resource and
35 watershed plans. The public would access the Water PIE using an
36 interactive, Internet-based, and geo-referenced application. The Water PIE
37 would provide information on past, current and projected water supply and
38 use data; as well as planned and implemented water resource projects.

39 12. DWR, in cooperation with other local, State and federal entities, implements
40 the proposed work plan to improve the data and analytical tools (described in
41 Chapter 3) for subsequent phases and updates of the Water Plan and

1 regional planning efforts. DWR improves data collection, data management,
2 analytical tools, decision-support tools, and communication tools to support
3 more intensive regional and local water planning and management; provide
4 improved water quantity and quality data; helps coordinate assumptions
5 between regions; and serves as a clearinghouse for regional plans, programs
6 and projects.

- 7 13. DWR continues to develop future updates to the California Water Plan with
8 the active input of a diverse Advisory Committee to provide a broad and
9 diverse public forum and consistent framework and information for integrated
10 water and resource planning at the state, federal and regional levels. The
11 State uses Water Plan Updates as an ongoing forum for the water
12 community, planners and resource managers to assess regional plans, deal
13 with tough water related issues and uncertainties, and to develop workable
14 and sustainable solutions. In between five-year updates, DWR adaptively
15 manages implementation of Water Plan recommended actions based on
16 continuous monitoring and assessment.
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Understanding California's Water

Regional and local water management, and state and federal regulation, policy, and water project management rely on a common and quantified understanding of water quantity, quality, demands, and their variability. As California's water demands grow and change, this quantitative understanding becomes critical for gaining greater benefits from limited resources and reducing controversy and conflicts in adapting our water system to new demands.

To improve our quantitative scientific understanding of California's water, the State needs to help develop and support:

- An organized system of data bases covering surface and ground water quantity, quality, and demands which are documented, reviewed, and in the public domain.
- Analytical tools which allow these data to be employed for current and future policy, regulatory, planning, and operational purposes in the public domain.
- A long-term and continuous effort to improve, document, and review data and analytical tools for local, regional, and statewide purposes, in conjunction with California Universities and local, regional, and federal water agencies and interests.
- Long-term applied research by California universities into new issues and opportunities arising in California water management.

Public Trust Responsibilities of State Agencies

The Public Trust Doctrine imposes trust responsibilities on state agencies that have authority over trust resources, or whose activities might affect the resources. Examples of these responsibilities include the following:

The State Water Resources Control Board must consider the public trust when granting water rights permits or licenses or approving transfers or other change petitions. The Board may fulfill its duty of continuous supervision under the Public Trust Doctrine by responding to complaints of violation or initiating investigations. If it determines that the trust is being violated, it may reconsider and amend existing water rights.

In acting on permits, transfer petitions, or complaints, the SWRCB should consider all available information, including NEPA or CEQA documents, input from the California Department of Fish and Game, information or evidence presented by other state agencies or local agencies or other parties, and other evidence regarding appropriate instream flows and non-flow conditions necessary to protect trust resources. The balance between the need to use water out of the stream and the requirement to protect trust uses will vary with the circumstances of the particular diversion. Trust resources must be protected where feasible.

The Department of Water Resources must consider the public trust in connection with the planning, design, construction and operation of SWP facilities or other projects in which DWR is a participant. Where a project will require a new water rights permit, the SWRCB will usually make a public trust determination during the course of the water rights process. DWR should assist the SWRCB by conducting and presenting studies and investigations regarding the needs of trust resources. Where DWR is the owner of a dam, Fish and Game Code Section 5937 requires the release or bypass of sufficient water to keep fish in the stream below the dam in good condition.

When acting as a party to a transfer, or when approving use of SWP facilities by others, DWR must take the public trust into account. Where SWRCB approval of a transfer is required, SWRCB may take the lead in determining what is required to protect the public trust resources. Where SWRCB approval is not required, as in the case of transfers of pre-1914 rights, DWR should consider all available information and protect public trust uses whenever feasible and reasonable. DWR may put conditions on its participation in a transfer, or condition the use of SWP facilities to protect public trust uses or resources. If a transfer would cause undue harm to trust resources, DWR may decline to participate, or deny the use of SWP facilities.

DWR also has the obligation to consider the public trust when carrying out its role in water planning, including the preparation of this Water Plan.

The Department of Fish and Game. Under Section 1802 of the Fish and Game Code, DFG must exercise its responsibilities as trustee for the resources of the state with jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species. DFG acts as a permitting agency for streambed alteration permits, reviews and comments on environmental documents, participates in water rights hearings to present evidence regarding the needs of fish and wildlife, determines instream flow requirements of certain streams, implements and enforces the California Endangered Species Act and the Natural Communities Conservation Program.

The State Lands Commission, which holds and administers state sovereign lands, including tidelands and the beds of navigable streams, must protect the public's interest in trust uses of those properties.